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R. E. Sigmon
Vice President - Regulatory Affairs

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

201 E. Fourth St., 102 - 320
P. O. Box 2301
Cincinnati, Ohio 45201
Phone: (513) 397-1260

January 10, 1994

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

In the Matter of:

Amendment of Parts 32 and 64 of
the Commission's Rules to Account for
Transactions between Carriers and their
Nonregulated Affiliates

CC Docket No. 93-251

Dear Mr. Caton:

Enclosed for filing are the original and nine copies of
Cincinnati Bell Telephone Company's Reply Comments in CC Docket
No. 93-251.

Please date stamp and return the duplicate of this letter as
acknowledgement of its receipt. Questions may be directed to
Robert C. Coogan on (513) 397-7820.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert E. Sigmon".

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Amendment of Parts 32 and 64 of the
Commission's Rules to Account
for Transactions between Carriers
and Their Nonregulated Affiliates

CC Docket No. 93-251

REPLY COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

Cincinnati Bell Telephone Company (CBT) respectfully submits the following reply to comments filed on December 10, 1993 in the above referenced docket.

CBT and the great majority of other commentors oppose the Commission's proposed rules to provide additional regulatory requirements for affiliate transactions. Only five parties support the proposed rules and they fail to provide any evidence that the current rules are not preventing cross-subsidization and not protecting ratepayers. While MCI makes speculative, unsupported statements implying "considerable carrier abuse",¹ "flourishing" cross subsidization,² and costing structure "manipulation,"³ it offers no support for its accusations which are no more than repetitions of groundless allegations raised in CC Docket 86-111.

¹ MCI Comments, page 1.

² Id., pages 1-2.

³ Id., page 8.

The Public Utilities Commission of Texas raises concerns about a loophole in the "tariff services" valuation methodology which involves individual case basis situations⁴. These particular types of special tariffed items are intrastate services and, therefore, the recommendation is outside the scope of this proceeding and need not be addressed by the Commission.

The International Communications Association (ICA) suggests that enforcement will be aided if carriers are required to list in their cost allocation manuals each section and subsection of a tariff on file that relates to services sold to an affiliated company.⁵ This proposal is not necessary and will only add more work and require more information to be tracked and updated without fulfilling any identified need. CBT is unaware of any situation in which such information has ever been requested by the Commission. If a situation arises that requires this type of information which is not readily available in public records, the Commission can ask at any time and the carriers will provide it. CBT recommends that this suggestion not be adopted.

The Commission proposes that a new comparison valuation methodology be applied to services bought from and sold to affiliated companies when tariffed and prevailing company prices do not exist. The new methodology would compare fully distributed costs with fair market value. Coopers & Lybrand (C&L) opposes this change. C&L explains in detail how this comparison methodology for services will

⁴ Public Utilities Commission of Texas Comments, page 3.

⁵ ICA Comments, page 10.

"... add substantial difficulty to the Carrier's affiliate transaction process and complexity and subjectivity to the audit process thereby diminishing the enforcement mechanism that the FCC currently has in place."⁶ C&L also cites the Commission's Order on Reconsideration in CC Docket 86-111 and points out the philosophy behind the current rules: "...[a] need to have rules and methodologies that are readily verifiable, simple to audit and [does] not require subjective judgement."⁷ CBT fully agrees with C&L. The new comparison valuation methodology for services should not be adopted by the Commission.

BellSouth also opposes the proposed comparison valuation methodology and goes one step further by recommending that the current comparison valuation methodology for assets be eliminated.⁸ This would ease the carriers' burden and simplify the auditing process while continuing to protect the ratepayer. CBT agrees with this recommendation. Even ICA, which generally supports the proposed rules, recognizes the complexity of the proposal and urges the Commission to "...consider allowing carriers to use somewhat more 'streamlined' approaches to costing affiliate transactions... ."⁹ It is in recognition of this that CBT urges the Commission to give serious consideration to streamlining the affiliate transaction rules. There are obvious

⁶ C&L Comments, page 1.

⁷ Id., page 2.

⁸ BellSouth Comments, pages 23-27.

⁹ ICA Comments, page 11.

benefits to carriers and ratepayers, and the protection against cross subsidization will be maintained.

The proposed rules would modify the prevailing company price valuation methodology and introduce a 75% test criteria. Southwestern Bell Telephone Company presents a complete and convincing argument as to why the current prevailing company price valuation rules are sufficient.¹⁰ It best summarizes the arguments by stating:

The percentage of output provided to nonaffiliates is irrelevant to the establishment of a prevailing market price, regardless of what percentage is chosen. It is the selling entity's market price -- what others are actually paying -- which should be the focus of the inquiry. It is the existence of a nonregulated, competitive market for the products and services in question that determines a market price or prevailing price. There is no reason to deny the legitimacy of a prevailing price, established by a substantial number of sales to nonaffiliates, based on the fact that an arbitrary percent of output threshold was not reached.¹¹

CBT agrees with Southwestern Bell that the current prevailing company price rules are adequate and working well, and there is no reason to modify them as proposed by the Commission.

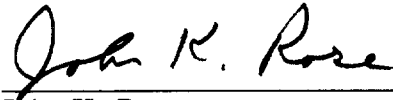
In summary, CBT urges the Commission not to adopt the proposed additional regulatory requirements for affiliate transactions. The comments clearly support this conclusion. CBT also urges the Commission to consider the benefits to regulators,

¹⁰ Southwestern Bell Telephone Company Comments, pages 7-13.

¹¹ Id., page 13.

carriers, and ratepayers that a streamlined and straightforward set of affiliate transaction rules would provide.

Respectfully submitted,



John K. Rose

William D. Baskett III
John K. Rose
FROST & JACOBS
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202
(513) 651-6800

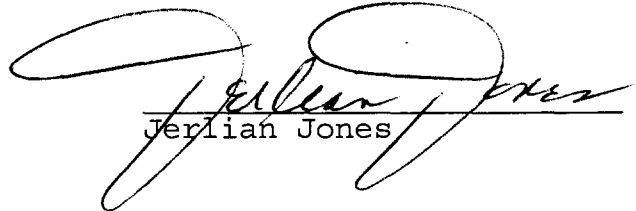
January 10, 1994

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Attorneys for
Cincinnati Bell Telephone Company

CERTIFICATE OF SERVICE

I, Jerlian Jones, do hereby certify on this 10th day of January, 1994, that I have caused a copy of the foregoing Reply Comments of Cincinnati Bell Telephone Company to be mailed via first class United States Mail, postage prepaid, to the persons on this service list.



Jerlian Jones

William F. Caton, Acting Secretary *
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

International Transcription Services *
Federal Communications Commission
1919 M Street, N.W., Room 246
Washington, D.C. 20554

William A. Kehoe, III *
Accounting & Audit Division
2000 L Street, N.W., Suite 257
Washington, D.C. 20554